



U.S. SMALL BUSINESS ADMINISTRATION
WASHINGTON, D.C. 20416

OFFICE OF THE NATIONAL OMBUDSMAN

March 31, 2008

Ms. Margaret M. Shanks
Assistant Secretary and Ombudsman
U.S. Federal Reserve Board
20th & C Street, N.W., Mail Stop 29
Washington, DC 20551

Dear Ms. Shanks:

The Office of the National Ombudsman held its second National Regulatory Fairness Hearing in Washington, DC, on March 12, 2008, to provide leaders from business organizations and trade associations an opportunity to comment on unfair or excessive Federal regulatory enforcement that impacts their members and small businesses nationwide.

During the hearing, Mr. Anthony Atkins, President-Elect of the Mississippi Association of Mortgage Brokers expressed concerns on behalf of the National Association of Mortgage Brokers (NAMB) regarding the Federal Reserve Board's proposed revisions to the Truth-in-Lending Act, Regulation Z and its significant impact on NAMB's 25,000 members and the mortgage broker industry.

Pursuant to the Small Business Regulatory Enforcement Fairness Act which requires the Office of the National Ombudsman to receive, substantiate, and report to Congress comments from small businesses regarding concerns of unfair or excessive Federal regulatory actions, I am forwarding NAMB's official concerns to your agency for a high-level review and consideration. I would appreciate a response to my office regarding these concerns within thirty (30) days of receipt of this letter.

Ms. Shanks, thank you for your attention to this matter. If you have any questions or concerns, please contact my office by telephone at (202) 205-2417, fax at (202) 481-5719 or e-mail at ombudsman@sba.gov.

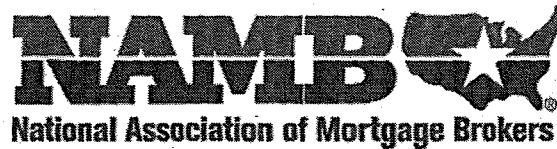
Sincerely yours,

Nicholas N. Owens
National Ombudsman and
Assistant Administrator for Regulatory Enforcement Fairness

Enclosure

The Mission of the Office of the National Ombudsman:
FOSTERING A MORE BUSINESS FRIENDLY REGULATORY ENFORCEMENT ENVIRONMENT.

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March 12, 2008

VIA ELECTRONIC MAIL

Nicholas N. Owens
National Ombudsman &
Assistant Administrator of Regulatory Enforcement Fairness
United States Small Business Administration
409 3rd Street, SW, MC 2120
Washington, D.C. 20416-0005

Dear Sir or Madam,

The National Association of Mortgage Brokers ("NAMB") appreciates the opportunity to submit this testimony to the Office of the National Ombudsman and the Small Business Administration's ("SBA") Regulatory Fairness Board, in conjunction with the second Annual National Regulatory Fairness Hearing in Washington, D.C. We applaud the SBA and the Office of the National Ombudsman for creating this national forum for small business groups to come together and share the ongoing regulatory concerns of their members.

NAMB is the only national trade association exclusively devoted to representing the mortgage broker industry, speaking on behalf of more than 25,000 members in all 50 states and the District of Columbia. Our members are independent small business owners, who adhere to a strict code of ethics and best lending practices¹ when presenting consumers with various mortgage financing options.

Today, the mortgage and credit markets are under significant stress, and the effects are being felt throughout the entire U.S. economy. In fact, for the first time, problems in the American mortgage finance system have had far reaching global ramifications. As a result, regulators are attempting to move swiftly to correct problems, both real and perceived, which are believed to have led us to where we are today. However, we fear that regulators, in their haste to address growing concerns, may unnecessarily endanger the future prosperity or even existence of many small business participants in the mortgage market.

The Federal Reserve Board has published proposed revisions to the Truth-in-Lending Act; Regulation Z, which would require only small business mortgage brokers to disclose, in advance of taking a loan application, their total compensation for originating that loan. Despite being proposed under the guise of enhanced consumer protection, the new rule would not place mortgage lenders and bank loan officers under any such obligation. Additionally, the U.S. Department of Housing and Urban Development ("HUD") has proposed new regulations under the Real Estate Settlement Procedures Act ("RESPA") that will severely impact mortgage brokers' ability to compete in the market. The proposed RESPA rule would also exempt bank loan officers and direct lenders from disclosing their financial interests in mortgage transactions, while requiring only mortgage brokers to make such a disclosure.

¹ See attached.

NAMB is deeply concerned over the impact that these proposed regulations will have on our 25,000 small business members and on the consumers they serve.

Small Business Originators in Today's Mortgage Market

The mortgage market has evolved significantly over the past 20 years. Today small business originators, like mortgage brokers, are playing a larger and more vital role than ever in helping millions of Americans achieve the dream of homeownership. However, we too often come across regulation that draws artificial lines and places small business originators at a significant competitive disadvantage in the marketplace.

Small business mortgage brokers are in direct competition with banks, credit unions, and other mortgage lenders in terms of offering origination services. Moreover, each of these distribution channels originates loans in virtually the same manner. A consumer typically enters the origination process through a retail branch of one of these competing entities, whereby the broker, lender, or bank loan officer offers the consumer some choice of loan products to consider. With the exception of banks and credit unions, there are no requirements for these competing retail branches to identify themselves as either a mortgage broker or lender shop, and therefore it is often unclear to consumers with whom they are actually working.

This should not matter, but regrettably it does, because consumers are not provided with the same information when they visit a bank or mortgage lender as when they choose to work with a mortgage broker. Despite the fact that mortgage brokers and lenders are in direct competition with one another when it comes to originating loans, mortgage lenders are exempted from disclosing to consumers the compensation they earn on each transaction. This encumbers the comparison shopping process, confuses consumers, and may be exploited as a sales tactic by bank and lender loan officers seeking a competitive advantage in the marketplace.

The requirement that only mortgage brokers disclose their total compensation creates an incentive and an opportunity for our competitors to mislead consumers. Those competitors who are not required to reveal their financial interest in the loan transaction can, and often will, highlight the disclosed mortgage broker compensation as an additional cost that will not be incurred if the consumer chooses to work with a bank or lender. This is an illusion. The reality is that consumers often incur the same or even greater transaction costs when working with a bank or lender as opposed to a mortgage broker.

Conclusion

We fear that too many regulators, at both the state and federal levels, are placing small business mortgage originators at great peril in their haste to address the ongoing concerns in the market. Placing greater restrictions and regulatory burdens on small business owners, while permitting their larger competitors to essentially maintain status quo poses great risk for consumers and for our financial markets.

Mortgage brokers originate the majority of all home loans in this country. However, if the recent regulatory proposals issued by the Federal Reserve Board, HUD, and OFHEO are finalized in their current form, small business mortgage brokers will face extinction. Our small business members will not be able to compete in a market where they are burdened with regulatory requirements that have been shown to drive customers toward their direct competitors who are free from any similar obligations.

NAMB appreciates this opportunity to share the concerns of our small business members with the Office of the National Ombudsman and the SBA's Regulatory Fairness Board. If you have any questions, please feel free to contact Roy DeLoach, Executive Vice President at (703) 342-5850, or Nikita Pastor, Vice President and Counsel, Government Affairs at (703) 342-5851.

Respectfully Submitted,

/s/

Anthony Atkins, CMC, CRMS

President

Mississippi Association of Mortgage Brokers